

PATENT APPLICATIONOFFICIALIN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group  
Art Unit: 1771

Attorney  
Docket No.: SHC0104

Applicant: Toshio KOYAYASHI et al.

Invention: Elastically Stretchable Composite Sheet and  
Process for Making the Same

Serial No: 09/766,275

Filed: January 19, 2001

Examiner: John Guarriello

Certificate Under 37 CFR 1.8(b)

I hereby certify that this correspondence is being  
transmitted to the United States Patent and Trademark  
Office via facsimile on the date indicated below.

on July 30, 2002

  
Michael S. Gzybowski



RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

In response to the Official Action mailed July 2, 2002 in connection with the above-identified applicants submit the following.

In the Official Action the Examiner has instituted a Restriction Requirement in which he has taken the position that the application includes claims directed to two different and distinct inventions.

Specifically the Examiner has taken the position that claims 1-3 and 6 (Group I) are directed to a composite stretchable sheet that is classified in class 442, subclass 329, and that claims 4 and 5 (Group II) are directed to a method that is classified in class 156, subclass 320.

Applicants submit that the Restriction Requirement is improper for the following reasons upon which applicants traverse the Restriction Requirement.

On page 2 of the Official Action the Examiner takes the position that the "inventions" are distinct because:

...the product as claimed can be made by another and 'materially different' process joining the first and second web by heating without using the binding spots of the indicated webs.

The Examiner's basis for the Restriction Requirement appears to have not considered that claim 1 recites that the fibrous assembly "being joined to said elastic sheet at binding sites that are arranged intermittently along said two directions..." and that claim 4 recites joining said first and second webs having been placed upon each other in step d) to each other intermittently in said one direction and in the direction orthogonal to said one direction."

It is believed that the recitation of "intermittent" bonding/binding sites in the article claims and method claims prevent restriction of the claims as the Examiner proposes.

The Examiner's portion that:

...the product as claimed can be made by another and 'materially different' process joining the first and second web by heating without using the binding spots of the indicated webs

is not believed to actually provide a basis for supporting the Restriction Requirement inasmuch as the requirement of intermittent joining and intermittent binding sites in the method and article claims are not limited to any specific method step(s). That is, the Examiner's position that the binding sites can be made by "heating" does not take into account that neither

the apparatus claims nor method claims are limited as to a specific manner of joining the fibrous assembly to the elastic sheet.

Reconsideration and withdrawal of the Restriction Requirement and an examination of all the claims in the present application is respectfully requested.

Notwithstanding applicants' reasons for traversing the Restriction Requirement, they realize that to be fully responsive to the Restriction Requirement, they must elect to have one of the groups of claims identified by the Examiner examined in the present application.

Accordingly, in order to be fully responsive to the Restriction Requirement, applicants hereby elect, with traverse, to have claims 1-3 and 6 (Group I) examined in the present application.

Notwithstanding applicants' election, the Examiner is asked to reconsider the basis of the Restriction Requirement which is believed to be improper for the reasons set forth above.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension

of time fees, to Deposit Account No. 02-0385 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski  
Reg. No. 32,816

BAKER & DANIELS  
111 East Wayne Street  
Suite 800  
Fort Wayne, Indiana 46802  
(260) 460-1661

**BAKER & DANIELS****FAXED**

JUL 30 2002

111 East Wayne, Suite 800, Fort Wayne, Indiana 46802

260-424-8000 ♦ FAX 260-460-1700 ♦ www.bakerdaniels.com

Indianapolis  
ElkhartFort Wayne  
Washington, D.C.South Bend  
Qingdao, P.R. China**Facsimile Cover Letter**OFFICIAL

**CONFIDENTIALITY NOTICE:** THE MATERIALS IN THIS FACSIMILE TRANSMISSION ARE PRIVATE AND CONFIDENTIAL AND ARE THE PROPERTY OF THE SENDER. THE INFORMATION CONTAINED IN THE MATERIAL IS PRIVILEGED AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL(S) NAMED BELOW. IF YOU ARE NOT THE INTENDED RECIPIENT, BE ADVISED THAT ANY UNAUTHORIZED DISCLOSURE, COPYING, DISTRIBUTION OR THE TAKING OF ANY ACTION IN RELIANCE ON THE CONTENTS OF THIS MATERIAL IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE TRANSMISSION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE TO ARRANGE FOR RETURN OF THE FORWARDED DOCUMENTS TO US.

**PLEASE DELIVER THE FOLLOWING PAGE(S) TO:**

	<u>Name</u>	<u>Company</u>	<u>Fax No.</u>	<u>Phone No.</u>
1.	Examiner John Guarriello	USPTO	703-305-5408 872-9471	703-308-3209

**From:** Michael S. Gzybowski**Date:** July 30, 2002Re: 09/766,275Our Ref.: SHC0104**Comments:** Attached is a Response to Restriction Requirement which we are filing by facsimile on July 30, 2002 in the above-identified patent application.**Return To:** Pat Spychalski**Total number of pages, including cover letter:** 5**A hard copy of this transmission**            **will be sent by regular mail**           **will be sent by overnight mail**  X   **will not be sent under separate cover**

**IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL THE  
FAX DEPARTMENT AT 260-460-1682 AS SOON AS POSSIBLE.**